

Message Text

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ACTION AID-31

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TO SECSTATE WASHDC PRIORITY 4320

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DEPT. PASS AID FOR NE/CE

E.O. 11652: N/A

TAGS: BENC, JO, US

SUBJECT: REQUEST FOR ADDENDA TO JACOBS INTERNATIONAL AND BROWN
AND ROOT CONTRACTS WITH ARAB POTASH COMPANY, LTD.

1. CHAIRMAN/GENERAL MANAGER OF ARAB POTASH COMPANY LTD.

(APC) HAS REQUESTED AID/J "TO CONFIRM" THAT ADDENDA
PROPOSED BY BROWN & ROOT AND JACOBS INTERNATIONAL TO
THEIR CONTRACTS WITH APC ARE "NECESSARY AND APPROPRIATE".

TEXTS OF PROPOSED ADDENDA FOLLOW:

A.) BROWN & ROOT -

QUOTE THIS ADDENDUM NO. 1 IS ATTACHED TO AND INCOR-
PORATED BY REFERENCE INTO AN AGREEMENT DATED FEBRUARY
10, 1977 BETWEEN THE ARAB POTASH COMPANY LTD, AND BROWN
AND ROOT INC. FOR A POTASH PROJECT AND THE PARTIES
HEREBY AGREE TO AMEND THAT AGREEMENT AS FOLLOWS:
ANY AND ALL REFERENCES CONTAINED IN ANY OF THE CONTRACT
DOCUMENTS GENERALLY STATING BROWN AND ROOT, INC.'S
OBLIGATION TO COMPLY WITH THE LAWS, REGULATIONS,
DECREES, ETC. OF THE KINGDOM OF JORDAN ARE HEREBY
AMENDED TO STATE GENERALLY BROWN AND ROOT, INC'S
ACKNOWLEDGEMENT THAT THE LAWS, REGULATIONS, DECREES,
ETC. OF THE KINGDOM OF JORDAN WILL APPLY TO BROWN
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AND ROOT, INC'S PERFORMANCE OF THE CONTRACT IN JORDAN
AND ITS INDEMNITY OF EMPLOYER AGAINST ALL PENALTIES
AND LIABILITY OF EVERY KIND FOR BREACH THEREOF SHALL
REMAIN IN FORCE. END QUOTE

B.) JACOBS INTERNATIONAL -

QUOTE - THIS ADDENDUM NO. 1 TO THE AGREEMENT
DATED 13 NOVEMBER, 1975 BETWEEN THE ARAB POTASH

COMPANY AND JACOBS INTERNATIONAL, INC. SHALL BE INCORPORATED BY REFERENCE INTO SAID AGREEMENT, AND THE PARTIES HEREBY AGREE TO AMEND THAT AGREEMENT AS FOLLOWS:

ANY AND ALL REFERENCES CONTAINED IN THE AGREEMENT OR OTHER PROJECT DOCUMENTS WHICH IN GENERAL STATE JACOBS INTERNATIONAL, INC.'S OBLIGATION TO CONFORM OR COMPLY WITH THE APPLICABLE LAWS, REGULATIONS AND ORDERS OF THE HASHEMITE KINGDOM OF JORDAN OR WHICH REFER TO THE PROVISION OF INSURANCE POLICIES THROUGH INSURERS ALLOWED BY LAW TO DO BUSINESS IN JORDAN ARE HEREBY AMENDED TO STATE GENERALLY THAT THE LAWS, REGULATIONS AND ORDERS OF THE HASHEMITE KINGDOM OF JORDAN WILL APPLY TO JACOBS INTERNATIONAL, INC. AND THAT INSURANCE POLICIES WILL BE PROVIDED BY INSURERS SATISFACTORY TO ARAB POTASH COMPANY. END QUOTE.

2. MATERIAL PROVIDED TO US BY APC WITH PROPOSED BROWN AND ROOT ADDENDA INDICATES THAT BROWN AND ROOT WANT ADDENDUM SIGNED BEFORE DECEMBER 31 WHEN "NEW U.S. LEGISLATION COMES INTO FORCE." ALTHOUGH NATURE OF "NEW U.S. LEGISLATION" IS NOT SPECIFIED IN COMMUNICATIONS FORWARDED TO US, WE BELIEVE REFERENCE IS TO ANTI-BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION ACT. WE RECALL THAT EARLIER THIS YEAR PRIVATE U.S. FIRM IN NEGOTIATING CONTRACT WITH GOJ AGENCY ALSO REQUESTED THAT ITS CONTRACT CALL FOR "APPLICATION" OF JORDANIAN LAW RATHER LIMITED OFFICIAL USE

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THAN "COMPLIANCE" WITH JORDANIAN LAW ON RECOMMENDATION FROM U.S. COMPANY'S LEGAL COUNSEL THAT FORMER USAGE WOULD NOT VIOLATE U.S. ANTI-BOYCOTT LEGISLATION WHEREAS LATTER CONSTRUCTION WOULD BE IN VIOLATION. WE, OF COURSE, ARE NOT IN POSITION TO MAKE THIS SORT OF JUDGMENT.

3. ACTION REQUESTED -- THAT DEPARTMENT AND/OR AID/W PROVIDE US WITH GUIDANCE TO RESPOND TO APC REQUEST FOR CONFIRMATION THAT REQUESTED ADDENDA ARE "NECESSARY AND APPROPRIATE". IF AID APPROVAL OF ADDENDA REQUIRED AND IF DECEMBER 31 CRITICAL DATE, PLEASE ADVISE NO LATER THAN DECEMBER 21. WE WOULD ALSO APPRECIATE BEING ADVISED IF EFFECTIVE DATES OF PROPOSED ADDENDA ARE MATERIAL REGARDING U.S. LEGISLATION.
PICKERING

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